

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Olga Bentin	Team: Squad #4	CCRB Case #: 201801584	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Friday, 02/23/2018 7:00 AM	Location of Incident: Inside of § 87(2)(b)	Precinct: 113	18 Mo. SOL 8/23/2019	EO SOL 8/23/2019	
Date/Time CV Reported Sat, 02/24/2018 7:06 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Sat, 02/24/2018 7:06 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. Officers			
2. An officer			
3. POF Lisa Boystak	24667	950097	105 PCT
4. DT2 Matthew Vahey	07959	907488	E S U
5. DTS Kenneth Paek	4270	940541	E S U
6. DTS Daniel Keane	03448	932844	ESS 10

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. CPT Kevin Chan	00000	938209	105 PCT
2. DTS Terry Avent	01029	932280	E S U
3. DTS Patrick Barry	00249	917283	E S U
4. DTS Dennis Mogelnicki	4467	937118	ESS 10
5. SSA Frank Ferrara	01864	915707	ESS 09
6. POM Michael Rogers	28421	919608	105 PCT
7. DTS Eric Miller	3190	944812	ESS 02

Officer(s)	Allegation	Investigator Recommendation
A.POF Lisa Boystak	Abuse: Police Officer Lisa Boystak entered § 87(2)(b) in Queens.	
B.POF Lisa Boystak	Abuse: Police Officer Lisa Boystak searched § 87(2)(b) in Queens.	
C.DTS Daniel Keane	Discourtesy: Detective Daniel Keane spoke discourteously to § 87(2)(b)	
D.DTS Daniel Keane	Force: Detective Daniel Keane used physical force against § 87(2)(b)	
E.DTS Daniel Keane	Force: Detective Daniel Keane tightly handcuffed § 87(2)(b)	
F.DTS Daniel Keane	Force: Detective Daniel Keane used a chokehold against § 87(2)(b)	
G.DTS Daniel Keane	Force: Detective Daniel Keane used physical force against § 87(2)(b)	
H.DTS Daniel Keane	Discourtesy: Detective Daniel Keane spoke discourteously to § 87(2)(b)	
I. An officer	Force: An officer used physical force against § 87(2)(b)	
J. An officer	Force: An officer used physical force against § 87(2)(b)	
K. An officer	Force: An officer used a chokehold against § 87(2)(b)	
L. An officer	Force: An officer restricted § 87(2)(b)'s breathing.	
M.DT2 Matthew Vahey	Force: Detective Matthew Vahey used physical force against § 87(2)(b)	
N.DT2 Matthew Vahey	Discourtesy: Detective Matthew Vahey spoke discourteously to § 87(2)(b)	
O.DTS Kenneth Paek	Force: Detective Kenneth Paek used physical force against § 87(2)(b)	
P.POF Lisa Boystak	Abuse: Police Officer Lisa Boystak refused to show the search warrant to § 87(2)(b)	
Q. An officer	Discourtesy: An officer spoke discourteously to § 87(2)(b)	
R. Officers	Abuse: Officers refused to show the search warrant to § 87(2)(b)	
S. Officers	Abuse: Officers refused to show the search warrant to § 87(2)(b)	

Case Summary

On February 24, 2018, § 87(2)(b) called the CCRB and filed this complaint on behalf of her uncles, § 87(2)(b) and § 87(2)(b) her § 87(2)(b) sister, § 87(2)(b) and her § 87(2)(b) brother, § 87(2)(b) did not witness this incident.

On February 23, 2018, at approximately 7 a.m., officers assigned to the 105th Precinct and ESU Tactical Apprehension Team entered and searched § 87(2)(b) in Queens pursuant to search warrant § 87(2)(b) (BR 01), which PO Lisa Boystak of the 105th Precinct obtained (**Abuse of Authority: Allegations A and B**, § 87(2)(g)) (although § 87(2)(b) is located in the confines of the 113th Precinct, police documents reflect that only officers from the 105th Precinct were involved in the obtainment and execution of the search warrant).

Det. Daniel Keane of ESU said to § 87(2)(b) several times during the search warrant execution, “Get on the fucking floor,” and “Shut the fuck up” (**Discourtesy: Allegation C**, § 87(2)(g)). Det. Keane used physical force against § 87(2)(b) by grabbing her hair, throwing her to the floor, stepping on her fingers, and kicking her once in the left side of her ribs (**Force: Allegation D**, § 87(2)(g)). Det. Keane also retightened § 87(2)(b) cuffs (**Force: Allegation E**, § 87(2)(g)).

Det. Keane placed § 87(2)(b) in a chokehold (**Force: Allegation F**, § 87(2)(g)), then kicked § 87(2)(b) (**Force: Allegation G**, § 87(2)(g)). Det. Keane told § 87(2)(b) “I do not give a fuck” (**Discourtesy: Allegation H**, § 87(2)(g)). An unidentified officer kicked § 87(2)(b) in his head (**Force: Allegation I**, § 87(2)(g)).

An unidentified officer brought § 87(2)(b) to the ground, causing § 87(2)(b) to injure his lower lip (**Force: Allegation J**, § 87(2)(f)). This officer placed § 87(2)(b) in a chokehold, restricting his breathing (**Force: Allegations K and L**, § 87(2)(g)).

Det. Matthew Vahey of ESU punched § 87(2)(b) in the ribs (**Force: Allegation M**, § 87(2)(g)) and told him, “Shut the fuck up. Do not talk to me” (**Discourtesy: Allegation N**, § 87(2)(g)). Det. Kenneth Peak of ESU kicked § 87(2)(b) several times in his ribs after handcuffing § 87(2)(b) (**Force: Allegation O**, § 87(2)(g)).

PO Boystak ignored § 87(2)(b) request to see the search warrant (**Abuse of Authority: Allegation P**, § 87(2)(g)). Another unidentified officer told § 87(2)(b) “Shut the fuck up. We do not have to show you anything” (**Discourtesy: Allegation Q**, § 87(2)(g)). § 87(2)(b) and § 87(2)(b) asked multiple other unidentified officers to show them the search warrant, but the officers ignored them (**Abuse of Authority: Allegations R and S**, § 87(2)(g)).

§ 87(2)(b) (BR 02), § 87(2)(b) (BR 03), and § 87(2)(b) (BR 04) were arrested for criminal possession of controlled substance in the first, third, fourth and fifth degrees, criminal sale of controlled substance in the third degree, criminal possession of marijuana in the second degree, and criminal possession of a weapon in the second and third degrees. § 87(2)(b) and § 87(2)(b) were not arrested or issued summonses.

There is no video footage of this incident.

Findings and Recommendations

Allegation (A) Abuse of Authority: Police Officer Lisa Boystak entered § 87(2)(b) in Queens.

Allegation (B) Abuse of Authority: Police Officer Lisa Boystak searched § 87(2)(b) in Queens.

On February 23, 2018, at 7 a.m., an ESU Apprehension Team and officers from the 105th Precinct entered and searched § 87(2)(b) in Queens pursuant to valid search warrant § 87(2)(b) (BR 01). The § 87(2)(b) signed the search warrant on § 87(2)(b). It authorized officers to enter the entire location of § 87(2)(b) in Queens, § 87(2)(b), without giving notice of authority or purpose to search for evidence of cocaine, narcotics, and narcotics paraphernalia, including but not limited to scales and balances, plastic bags, records or other evidence of ownership, or use of this location, records of narcotics transactions, and United States currency used for purchase or which presents proceeds of narcotics trafficking. Property vouchers (BR 05) indicate that officers recovered bills amounting to \$3,325, 47 small bags of marijuana, six bags of crack cocaine, six bottles of alprazolam pills, one pistol with one magazine, a laser sight, and 11 cartridges from the § 87(2)(b) and § 87(2)(b).

Police officers may forcibly enter and search premises pursuant a valid search warrant. New York Criminal Procedure Law Sections 690.30 and 690.50 (BR 06 and BR 07)

§ 87(2)(g)

Allegation (C) Discourtesy: Detective Daniel Keane spoke discourteously to § 87(2)(b)

Allegation (D) Force: Detective Daniel Keane used physical force against § 87(2)(b)

Allegation (E) Force: Detective Daniel Keane tightly handcuffed § 87(2)(b)

It is generally undisputed that ESU officers effected entry into the premises and conducted a sweep of the residence before officers from the 105th Precinct entered. It was also established that § 87(2)(b) her § 87(2)(b) cousin, § 87(2)(b) her § 87(2)(b) cousin, § 87(2)(b) her § 87(2)(b) brother, § 87(2)(b) and her uncle, § 87(2)(b) were sleeping in the basement at the time of this incident. Drawn to the noise of the entry, the civilians emerged to the § 87(2)(b) kitchen, where they encountered Det. Keane, Det. Barry, and Sgt. Ferrara, who had remained on the § 87(2)(b) after other ESU officers proceeded to the upper floors. The officers handcuffed the civilians and moved them to the adjacent dining room.

There are varying accounts as to the order in which civilians exited the basement. While it is undisputed that Det. Keane used force against § 87(2)(b) there are also varying accounts as to the level of force Det. Keane used and the resistance § 87(2)(b) offered.

§ 87(2)(b) (BR 08) said that she exited the basement first, followed by § 87(2)(b). When she emerged, Det. Keane, Det. Barry, and Sgt. Ferrara yelled, “Get on the floor.” § 87(2)(b) did not do so and asked what was going on. Det. Keane twice more said, “Get on the fucking floor,” and, “Shut the fuck up and get on the fucking floor.” Det. Keane grabbed § 87(2)(b) by the hair from the back of her head, said a third time, “Get on the fucking floor,” and then threw § 87(2)(b) down, so that § 87(2)(b) landed face-down on the floor. § 87(2)(b)

sustained cuts and scrapes to her knees and right elbow, and swelling to her right eyebrow (BR 09).

Det. Keane placed his knee on § 87(2)(b) back and handcuffed her. Det. Keane told her, “Shut the fuck up.” Det. Keane grabbed § 87(2)(b) by her hair again and lifted her head up. § 87(2)(b) asked Det. Keane why he was doing this. Det. Keane hit § 87(2)(b) on the back of her head with his open palm and said, “Shut the fuck up.”

Det. Keane then lifted § 87(2)(b) and walked her to the dining room. Det. Keane kept pulling § 87(2)(b) cuffs upwards. When § 87(2)(b) continually pulled her arms down, Det. Keane squeezed § 87(2)(b) cuffs tighter, causing pain to her wrists.

When Det. Keane brought § 87(2)(b) to the dining room, he threw her again to the floor and placed his foot on her back. Det. Keane then stepped on the fingers of § 87(2)(b) left hand, causing minor scrapes and bruising. Several minutes later, Det. Keane approached § 87(2)(b) kicked her once in the left side of her ribs, and told her to be quiet.

§ 87(2)(b) made no complaint of pain or injury to officers. After the officers left, § 87(2)(b) continued to experience pain and therefore went to § 87(2)(b) the evening on § 87(2)(b).

§ 87(2)(b) medical records (BR 10) document her complaint that earlier that day, the police grabbed her and “pulled her arms over her head.” § 87(2)(b) was then “slammed to the floor,” hitting her head. § 87(2)(b) was kicked in her head while it was pressed against the floor and then handcuffed. § 87(2)(b) complained of bruising to her arms, headache, and pain to her whole body, but particularly the right side of her face, shoulders, and wrists. An x-ray of § 87(2)(b) spine, shoulders, wrists, and a CT scan of her head revealed no injuries. § 87(2)(b) was diagnosed with minor swelling and contusions to the right side of the face. She was prescribed ibuprofen and released home.

§ 87(2)(b) (BR 14) account differed in that he said he exited the basement first and that § 87(2)(b) emerged several minutes later. When she did, Det. Keane grabbed her by her hair on the side of her head, while two other officers whom he could describe brought § 87(2)(b) to the floor. § 87(2)(b) later revised his statement to say that Det. Keane punched § 87(2)(b) once in her ribs (he was unsure what side) and that another officer who he could not describe pulled her down to the floor by her hair. § 87(2)(b) denied that § 87(2)(b) resisted. § 87(2)(b) did not see what else happened to § 87(2)(b) as officers were simultaneously handcuffing him.

§ 87(2)(b) (BR 11) also provided a differing account, saying that when he exited the basement, he saw § 87(2)(b) on the floor with three officers, whom he was unable to describe, on top of her. § 87(2)(b) attempted to get up by turning her body. § 87(2)(b) then saw an officer, whom he described as a large white male with spiked black hair and wearing a black uniform – a vague description that could not be tied to any officer on scene – grab § 87(2)(b) by her hair and push her to the floor in the dining room, causing § 87(2)(b) to land on her knees. § 87(2)(b) did not see what else happened to § 87(2)(b).

§ 87(2)(b) (BR 15) provided a different account of what happened. § 87(2)(b) said she left the basement first. At Det. Keane’s instruction, she moved to the dining room. From the dining room, § 87(2)(b) had a clear view of the kitchen and the basement steps. § 87(2)(b) saw § 87(2)(b) emerge from the basement, followed by § 87(2)(b). § 87(2)(b) asked the officers what was going on. The officers ordered § 87(2)(b) to get onto the ground or to sit down. § 87(2)(b) did not comply. Det. Keane then grabbed § 87(2)(b) by her upper shoulders and pulled her face-down to the floor. When Det. Keane grabbed § 87(2)(b)

§ 87(2)(b) he also accidentally grabbed her hair, which was loose and coming down over her shoulders. Det. Keane then grabbed § 87(2)(b) hands, brought them behind her back, and cuffed her. § 87(2)(b) did not see § 87(2)(b) trying to get off the floor or moving. Several minutes later, Det. Keane lifted § 87(2)(b) off the floor, brought to the dining room, and sat her on a chair.

§ 87(2)(b) did not witness any other force being used against § 87(2)(b) did not observe any visible physical injuries on § 87(2)(b) when she was brought to the dining room. Later, § 87(2)(b) saw bruising to § 87(2)(b) wrists, which she believed the handcuffs caused.

§ 87(2)(b) did not see Det. Keane tighten § 87(2)(b) handcuffs.

§ 87(2)(b) was uncooperative with the investigation (BR 16), and other civilians were not in position to see this force occur. The request for Threat, Resistance, and Injury Report (BR 17) for § 87(2)(b) returned negative results.

Det. Keane (BR 18) generally corroborated § 87(2)(b)'s account, stating that § 87(2)(b) and § 87(2)(b) exited the basement first, and that they were moved to the dining room.

§ 87(2)(b) then exited the basement. Det. Keane told § 87(2)(b) to show his hands, but he did not comply and walked further into the kitchen. § 87(2)(b) then exited the basement. Because § 87(2)(b) was not properly secured, Det. Keane extended his left arm to stop § 87(2)(b) and asked her not to move. Det. Keane heard a commotion involving § 87(2)(b) behind him, but before he could turn to see what was going on, § 87(2)(b) began to yell, "You cannot arrest him," while trying to move towards § 87(2)(b). Det. Keane grabbed § 87(2)(b) by one of her arms to restrain her. § 87(2)(b) yelled, moved her hands in front of her body, and kicked Det. Keane in the left side of his chest. Det. Keane attempted to grab § 87(2)(b) other hand, but she moved forward, so that she and Det. Keane spun around once together. Det. Keane then brought his right foot forward, while holding § 87(2)(b) by one of her arms, and guided her in a controlled manner face-down to the floor. Det. Keane denied forcibly throwing § 87(2)(b) to the ground, or grabbing § 87(2)(b) by her hair.

Det. Keane rear-handcuffed § 87(2)(b) once she was on the floor. Det. Keane left § 87(2)(b) with an ESU officer who he could not identify while he went to secure the basement. Det. Keane denied interacting with § 87(2)(b) again.

Det. Keane denied using force against § 87(2)(b) beyond what he described. He denied saying to § 87(2)(b) at any point, "Get on the fucking floor," or, "Shut the fuck up." Det. Keane denied adjusting § 87(2)(b) handcuffs. Det. Keane did not observe any injuries to § 87(2)(b).

Det. Barry (BR 19) said that he was in the dining room when he heard § 87(2)(b) yell in the kitchen something to the effect, "Fuck you," "Get the fuck out," and other profanities. Det. Barry could not see what was going on, because his view was obstructed by the dining room wall. An ESU officer, whom Det. Barry could not describe and the investigation was unable to identify, entered the kitchen to assist Det. Keane. Det. Barry denied hearing Det. Keane use profanity.

Det. Avent (BR 20) similarly said that from the dining room, he heard a female yell from the kitchen something like, "Suck my dick," and, "Fuck you, motherfucker." Det. Avent looked in the kitchen and saw § 87(2)(b) lying on her side on the floor with two ESU officers, whom he was unable to identify, leaning over her. The officers were trying to bring § 87(2)(b) hands behind her back. § 87(2)(b) was resisting by moving her body from side to side, kicking her legs, and pulling her arms away, preventing officers from cuffing her. It took several seconds for the officers to handcuff § 87(2)(b). Det. Avent stopped watching once § 87(2)(b) was handcuffed. He did not witness officers use profanity or any other force against § 87(2)(b).

Sgt. Ferrara (BR 21) had no recollection of § 87(2)(b) and denied observing Det. Keane use the profanity of force she described.

Det. Mogelnicki (BR 23), Det. Vahey (BR 24), and Det. Paek (BR 25) denied entering the first-floor kitchen, securing any civilians on the first floor, or witnessing what happened there.

§ 87(2)(g)

Allegation (F) Force: Detective Daniel Keane used a chokehold against § 87(2)(b)

Allegation (G) Force: Detective Daniel Keane used physical force against § 87(2)(b)

Allegation (H) Discourtesy: Detective Daniel Keane spoke discourteously to § 87(2)(b)

Allegation (I) Force: An officer used physical force against § 87(2)(b)

While it is undisputed that some force was used to restrain § 87(2)(b) the exact type of force is disputed.

§ 87(2)(b) (BR 14) stated that upon exiting the basement, Det. Keane ordered him to put his hands up and come closer. § 87(2)(b) complied. Once § 87(2)(b) made several steps forward, Det. Keane ran at him and placed him in a chokehold by wrapping one of his arms around § 87(2)(b) neck, so that his forearm touched the front of § 87(2)(b) throat. Det. Keane held § 87(2)(b) like this for less than a minute. It did not restrict his breathing.

Det. Barry then wrapped both his arms around § 87(2)(b) upper shoulders, while Det. Avent grabbed § 87(2)(b) arms and pulled him to the floor, causing § 87(2)(b) to land onto his stomach. § 87(2)(b) braced his fall by stretching his arms in front of his body. One of the officers yelled that § 87(2)(b) was resisting, though § 87(2)(b) denied this.

Det. Keane placed § 87(2)(b) in handcuffs. Det. Barry or Det. Avent tried to lift § 87(2)(b) off the floor. § 87(2)(b) told Det. Barry or Det. Avent that he could not get off the floor that fast, at which time Det. Keane kicked him several times in the groin, saying, “He is resisting.” When § 87(2)(b) told officers that he had hernia in his groin, Det. Keane said, “I do not give a fuck.”

§ 87(2)(b) also alleged that while being cuffed by Det. Keane, he attempted to turn his head to see what was going on with § 87(2)(b). Either Det. Barry or Det. Avent – § 87(2)(b) could not tell which – placed both hands on § 87(2)(b) head and pressed it against the floor, and then kicked § 87(2)(b) three or four times in the head. § 87(2)(b) did not sustain any injuries, but experienced headache.

§ 87(2)(b) did not seek medical treatment until § 87(2)(b), when he went to § 87(2)(b). His medical records (BR 37) note his chief complaint as headache, lower back pain, and pain to his genitals after being assaulted by police two weeks prior. Upon further medical examination, no injuries were revealed. The doctor could not reach any conclusive findings regarding § 87(2)(b) brain scan, because there was a bullet fragment lodged in § 87(2)(b)'s left petrous bone.

§ 87(2)(b) (BR 08) provided a different account. § 87(2)(b) said that she only saw Det. Barry and Det. Avent grab and throw § 87(2)(b) to the floor. § 87(2)(b) landed face down and yelled, “Get off her,” referring to § 87(2)(b). § 87(2)(b) then heard officers yell that § 87(2)(b) was resisting, at which point Det. Keane approached § 87(2)(b) and kicked him once in his ribs. § 87(2)(b) denied that § 87(2)(b) was resisting the

officers. § 87(2)(b) did not see what else happened to § 87(2)(b) and did not allege that he was placed in a chokehold, or kicked in the head, back, or groin by any officer.

§ 87(2)(b) (BR 15) also provided a different account. From the dining room, she saw § 87(2)(b) exit the basement after § 87(2)(b) was cuffed. § 87(2)(b) yelled, “What are you doing?” and, “What is going on?” while moving towards § 87(2)(b) Det. Keane, Det. Barry, and Det. Avent surrounded § 87(2)(b) Det. Keane wrapped his arms around § 87(2)(b) upper shoulders and brought him to the floor. § 87(2)(b) attempted to get up by pushing his body off the floor with his hands and squirming. Det. Keane grabbed § 87(2)(b) hands, placed them behind his back, and handcuffed him. No other officers assisted Det. Keane. Det. Keane then lifted § 87(2)(b) and brought him to the dining room. § 87(2)(b) did not see Det. Keane or any other officer wrap his arm around § 87(2)(b) neck or otherwise place him in a chokehold. § 87(2)(b) did not see Det. Keane or any other officer kick § 87(2)(b) in his groin, back, or head.

§ 87(2)(b) (BR 11) did not see what happened to § 87(2)(b) but heard him yell, “What the fuck are you doing to me?” while § 87(2)(b) was still in the basement. § 87(2)(b) was uncooperative with the investigation (BR 16).

The request for Threat, Resistance, and Injury Report (BR 17) for § 87(2)(b) returned negative results.

Det. Keane (BR 18) stated that when § 87(2)(b) exited the basement, he told him, “Police. Search warrant. Please show me your hands,” to which § 87(2)(b) replied, “You can fucking see my hands.” Det. Keane told § 87(2)(b) to move further into the kitchen. § 87(2)(b) complied. § 87(2)(b) then exited the basement as well. Det. Keane concentrated his attention on § 87(2)(b) and did not see what happened to § 87(2)(b).

Det. Keane denied making any physical contact with § 87(2)(b) placing him in a chokehold, punching or kicking in his groin, ribs, head, or using any force against him whatsoever during this incident. Det. Keane did not see officers use force against § 87(2)(b). Det. Keane did not hear § 87(2)(b) complain of pain to his groin, and denied saying to him, “I do not give a fuck,” nor did he hear any other officer make this statement.

Det. Barry (BR 19) and Det. Avent (BR 20) provided generally consistent testimonies. Det. Barry said that after he secured § 87(2)(b) § 87(2)(b) in the dining room, § 87(2)(b) exited the basement and walked towards him. When § 87(2)(b) reached the dining room, Det. Barry extended his left arm in front of his body and ordered § 87(2)(b) to stop, to get down to the floor, and to show his hands. § 87(2)(b) did not follow Det. Barry’s orders and attempted to pass Det. Barry by bumping into him. § 87(2)(b) yelled something, though Det. Barry could not recall his specific words. Det. Barry grabbed one of § 87(2)(b) wrists and cuffed it. § 87(2)(b) continued to advance forward, trying to get out of the house. Det. Barry then called Det. Avent over the radio and asked for assistance.

Seconds later, Det. Avent (BR 20) came down from the second floor and approached § 87(2)(b). Det. Avent then grabbed § 87(2)(b) other wrist, brought it behind his back, and cuffed it. Det. Barry bent § 87(2)(b) forward and placed one of his arms on § 87(2)(b) left or right shoulder and his other arm on § 87(2)(b) upper arms closer to the cuffs, and then in a controlled manner guided him face down to the floor.

Det. Barry asked § 87(2)(b) to remain on the floor and he complied. No other ESU officer assisted them in cuffing or bringing § 87(2)(b) to the floor. They denied using any of the above alleged force against § 87(2)(b) themselves. They did not hear

§ 87(2)(b) complain that he had hernia in his groin, and denied saying to him, “I do not give a fuck,” nor did they hear any officer make this statement.

Sgt. Ferrara (BR 21) had no specific recollection of § 87(2)(b) Det. Mogelnicki (BR 23), Det. Vahey (BR 24), and Det. Paek (BR 25) denied securing any civilians on the first floor, or witnessing what happened there.

§ 87(2)(g)

Allegation (J) Force: An officer used physical force against § 87(2)(b)

Allegation (K) Force: An officer used a chokehold against § 87(2)(b)

Allegation (L) Force: An officer restricted § 87(2)(b) s breathing.

The investigation was unable to identify the subject officer of these allegations.

§ 87(2)(b) (BR 11) stated that he emerged last from the basement. When Isiah § 87(2)(b) neared the top of the staircase, an officer, whom he described as a white male, in his 20s, tall, skinny, and wearing a helmet – a description that was insufficiently specific to be tied to any officer on scene – grabbed his hands and pulled him forward, causing him to fall and hit his face on the kitchen floor, so that he sustained minor swelling and a small cut to his lower lip.

Approximately a minute later, the same officer lifted § 87(2)(b) off the floor.

§ 87(2)(b) saw several officers on top of § 87(2)(b) on the floor. § 87(2)(b) yelled, “What are you doing to my sister?” and ran towards § 87(2)(b). The same officer placed his right arm around § 87(2)(b) s neck while standing behind him, and used his left hand to turn § 87(2)(b) s head to the right side. The officer’s right arm did not touch § 87(2)(b) s throat, but § 87(2)(b) had trouble breathing. § 87(2)(b) continued to

yell, “What are you doing to my sister?” The officer tightened his right arm, which applied more pressure to § 87(2)(b)'s neck, and said, “Everything is going to be all right.” The officer held § 87(2)(b) in this fashion for several minutes while § 87(2)(b) tried to run towards his sister.

The officer then released § 87(2)(b) walked him to the dining room, and told to sit down. § 87(2)(b) complied.

The investigation obtained several photographs § 87(2)(b) took of § 87(2)(b)'s injury to his lower lip (BR 12) two or three days after the incident. The photographs show a small abrasion to the left side of § 87(2)(b)'s lower lip.

§ 87(2)(b)'s medical records (BR 13) from § 87(2)(b) in Queens note that on § 87(2)(b), § 87(2)(b) complained of head and lip injury, and reported that on February 23, 2018, police raided his house and “pulled and shoved” him to a concrete floor, so that he hit his head on the floor and accidentally bit his lip. He was also placed in a chokehold when he tried to reach § 87(2)(b) who was pinned on the floor. A physical examination noted that § 87(2)(b) had “mild tenderness/small contusion over the right peridental area” and “contusion of the lip.” No other injury was noted.

§ 87(2)(b) (BR 08) did not see what happened to her brother. § 87(2)(b) only remembered seeing § 87(2)(b) sitting on the chair in the dining room.

§ 87(2)(b) (BR 14) did not see what happened to § 87(2)(b) but heard him yell, “What are you doing to my sister?” At some point during this incident, § 87(2)(b) saw § 87(2)(b) walk to the dining room from the kitchen accompanied by an officer who he could not describe. § 87(2)(b) noticed that § 87(2)(b) had a small cut to his lower lip.

§ 87(2)(b) (BR 15) said that after § 87(2)(b) was cuffed, § 87(2)(b) exited the basement. § 87(2)(b) had a clear and unobstructed view of § 87(2)(b) from her seat in the dining room. Several officers, whom she described as white males, between 5’6” and 5’8” tall, told § 87(2)(b) to go to the dining room and to sit down. He complied. Nothing happened to § 87(2)(b). She did not see any officer throw § 87(2)(b) to the floor, wrap his arm around § 87(2)(b)'s neck, or place him in a chokehold. § 87(2)(b) denied that § 87(2)(b) had any injuries.

§ 87(2)(b) was uncooperative with the investigation (BR 16). The request for Threat, Resistance, and Injury Report (BR 17) for § 87(2)(b) returned negative results.

Det. Keane (BR 18) stated that when he entered the kitchen, three children between the ages of 10 and 13 exited the basement one after another. Det. Keane ordered each child to approach him and then passed them to Det. Barry, who was standing behind him. None of the children offered any resistance.

Det. Barry (BR 19) acknowledged that several civilians exited the basement into the kitchen. Det. Barry did not remember if there were any children amongst them. Det. Barry denied seeing or interacting with § 87(2)(b).

Det. Avent (BR 20) acknowledged seeing a young male child, whose age he could not approximate, on the first floor of the house; Det. Avent could not confirm if this was § 87(2)(b). Det. Avent saw an ESU officer, whom he was unable to describe or identify, bring the child from the basement, walk him to the dining room, and sit him on a chair.

Det. Keane (BR 18), Det. Barry (BR 19), and Det. Avent (BR 20) all denied throwing § 87(2)(b) to the floor, placing him in a chokehold, restricting his breathing, or using any force against him.

Det. Vahey (BR 24) and Det. Avent (BR 20) both stated that upon entering the § 87(2)(b), they went to the bedroom to the left of the staircase along with Det. Mogelnicki. Det. Vahey and Det. Avent saw § 87(2)(b) and several minor children in the room. Det. Vahey and Det. Avent ordered § 87(2)(b) to get on the floor and he complied. Det. Vahey rear-handcuffed § 87(2)(b) without incident. “§ 87(2)(b) then emerged from a bedroom across the hall. “§ 87(2)(b) complied with orders to get on the floor and Det. Vahey and Det. Avent handcuffed him.

Det. Vahey denied punching § 87(2)(b) in his ribs. Det. Vahey did not hear § 87(2)(b) complain that his cuffs were tight, denied saying, “Shut the fuck up. Do not talk to me,” and denied using any profanity. Det. Avent denied witnessing Det. Vahey commit these allegations.

Det. Mogelnicki’s (BR 23) provided a different account. Det. Mogelnicki stated that upon initial entry, he, Det. Vahey, and Det. Keane first entered and checked the basement via a set of stairs directly underneath the § 87(2)(b) staircase, where they encountered a male and a female. Det. Mogelnicki remained there until officers from the 105th Precinct relieved him. An officer who Det. Mogelnicki could not identify then called him by radio to request that he secure two males on the § 87(2)(b). On the § 87(2)(b), Det. Mogelnicki saw § 87(2)(b) and “§ 87(2)(b) lying in the hallway. § 87(2)(b) was already cuffed, so Det. Mogelnicki walked over to “§ 87(2)(b) and placed him in handcuffs. Det. Mogelnicki did not see Det. Vahey punch § 87(2)(b) in his ribs. Det. Mogelnicki did not hear § 87(2)(b) complain that his cuffs were tight, nor did he hear Det. Vahey say to him, “Shut the fuck up. Do not talk to me.”

Sgt. Ferrara (BR 21) went to the § 87(2)(b) shortly upon initial entry, where he encountered several civilians standing at the top of the staircase. Sgt. Ferrara ordered the civilians to get down on the floor and they complied. Officers who Sgt. Ferrara could not identify then handcuffed the civilians. Sgt. Ferrara then returned to the § 87(2)(b). Sgt. Ferrara denied that officers used any force on the § 87(2)(b). Sgt. Ferrara did not hear any of the civilians complain that his cuffs were tight, nor did he hear any officer say, “Shut the fuck up. Do not talk to me,” or otherwise use any profanity.

Det. Keane (BR 18) and Det. Barry (BR 19) denied entering the § 87(2)(b). Det. Paek (BR 25) stated that he entered the § 87(2)(b) only briefly before going to the attic.

§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)

Allegation (O) Force: Detective Kenneth Paek used physical force against § 87(2)(b)

It is undisputed that at the time of this incident § 87(2)(b) was in his bedroom in the § 87(2)(b). There is a second bedroom in the attic where § 87(2)(b) s brother, § 87(2)(b) and § 87(2)(b) girlfriend, § 87(2)(b) were sleeping. It is undisputed that Det. Paek entered § 87(2)(b) s bedroom and handcuffed him. § 87(2)(g)

§ 87(2)(b) (BR 27) said he was in bed when Det. Paek rushed into his bedroom yelling, “Lay down, lay down.” Det. Paek grabbed § 87(2)(b) s arms and pulled him off the bed so that § 87(2)(b) landed face-down on the floor. After Det. Paek handcuffed § 87(2)(b) asked, “What is going on?” Det. Paek kicked § 87(2)(b) three or four times on § 87(2)(b) s left ribs. § 87(2)(b) denied resisting Det. Paek.

§ 87(2)(b)'s medical records (BR 28) from § 87(2)(b) indicate that he appeared in the Emergency Room on § 87(2)(b), complaining of headache and pain to his ribs, neck, lower back, after being "beaten" by police on February 23, 2018. A CT-scan of § 87(2)(b)'s right and left side ribs revealed a "slightly displaced fracture" of the left ninth rib. Notes in the medical records indicate the injury could have occurred between one to three weeks before the scan was taken. No other injuries were documented.

On unspecified date, § 87(2)(b) filed a personal injury claim form with the New York City Comptroller Office (BR 29) alleging that three officers in SWAT gear entered § 87(2)(b)'s attic bedroom and violently threw him to the ground without giving § 87(2)(b) the opportunity to get down on his own accord. These officers then immediately placed § 87(2)(b) in handcuffs and forcefully pushed his face into the floor, stepped on his head and neck, and then kicked and punched him several times about his body. This violent assault on § 87(2)(b)'s person lasted between 10 to 30 minutes and caused "multiple physical injuries" which required medical treatment. The claim did not specify what kind of injuries were sustained or what treatment was obtained.

The request for Threat, Resistance, and Injury Report (BR 17) for § 87(2)(b) returned negative results. § 87(2)(b)'s arrest report (BR 03) stemming from this incident prepared for him by PO Boystak indicates that no force was used § 87(2)(b) during his arrest.

§ 87(2)(b) (BR 30) was uncooperative with the investigation. § 87(2)(b) (BR 31) in her telephone statement stated that she and § 87(2)(b) were in their bedroom. Det. Paek and Det. Miller entered, pulled them off the bed, and handcuffed them. § 87(2)(b) did not see how officers handcuffed § 87(2)(b) and did not see officers use force against him.

Det. Paek (BR 25) stated that upon entering § 87(2)(b), he and Det. Eric Miller went directly to the attic, where Det. Paek found § 87(2)(b) and § 87(2)(b) sleeping. Det. Paek said, "Police Department. Search warrant," ordered § 87(2)(b) and § 87(2)(b) to get off the bed, to turn around, and to place their hands behind their backs. § 87(2)(b) and § 87(2)(b) § 87(2)(b) complied. Det. Paek handcuffed them and had them sit on the floor.

Det. Paek then heard a noise coming from the door to his right. Det. Paek tried to open the door, but it was locked. Det. Paek kicked the door once and it opened. Det. Miller remained with § 87(2)(b) and § 87(2)(b). Det. Paek saw § 87(2)(b) standing to the side of the bed in the room. Det. Paek said, "Police Department. Search warrant," and ordered him to turn around and to place his hands behind his back. § 87(2)(b) complied. Det. Paek ordered § 87(2)(b) to sit on the floor. § 87(2)(b) complied and Det. Paek placed him in handcuffs.

Approximately five minutes later, several officers from the 105th Precinct entered the attic and relieved Det. Paek and Det. Miller.

Det. Paek denied kicking § 87(2)(b) in his rib cage, or using any force against him during this incident. Det. Paek did not hear § 87(2)(b) complain of any injury.

§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)

Allegation (P) Abuse of Authority: Police Officer Lisa Boystak refused to show the search warrant to § 87(2)(b)

Allegation (Q) Discourtesy: An officer spoke discourteously to § 87(2)(b)

Allegation (R) Abuse of Authority: Officers refused to show the search warrant to § 87(2)(b)

Allegation (S) Abuse of Authority: Officers refused to show the search warrant to

§ 87(2)(b)

It is undisputed that officers eventually moved all civilians to the dining room of § 87(2)(b) § 87(2)(b) (BR 14), § 87(2)(b) (BR 26), and § 87(2)(b) (BR 27) all alleged that after they were brought to the dining room, they all asked various officers to show them the search warrant.

§ 87(2)(b) alleged that PO Boystak ignored him when he asked her to show him the warrant. Another officer, whom § 87(2)(b) described as a white male, in his 40s, between 5'10" and 5'11" tall, with a medium build, black hair, and dressed in a police uniform, overheard his request to PO Boystak and told him, "Shut the fuck up. We do not have to show you anything."

§ 87(2)(b) and § 87(2)(b) both stated that they asked multiple officers several times to show them the search warrant, but the officers ignored them. § 87(2)(b) and § 87(2)(b) were unable to describe any of the officers they asked.

§ 87(2)(b) (BR 08) and § 87(2)(b) (BR 15) confirmed that § 87(2)(b) and § 87(2)(b) asked multiple officers to show them the search warrant. § 87(2)(b) and § 87(2)(b) both stated that an officer did show the search warrant to all of them before the officers left the house, though their descriptions of the officer who did so vary.

§ 87(2)(b) (BR 08) stated that after they all were secured in the dining room, an officer, whom she described as a white male, with salt and pepper hair, and wearing a black or a navy-blue jacket, showed the search warrant to everybody. The investigation was unable to identify any officer on scene closely matching this description. § 87(2)(b) did not make any statements regarding an officer cursing at § 87(2)(b) when he asked to see the search warrant.

§ 87(2)(b) (BR 15) stated that when § 87(2)(b) and § 87(2)(b) were asking to see the search warrant, an officer, whom she described as a white male, in his 50s, fat, with salt and pepper hair, and wearing a black hat, asked them to be patient and wait. § 87(2)(b) denied hearing any officer tell § 87(2)(b) "Shut the fuck up. We do not have to show your anything." Another officer whom she was unable to describe showed the search warrant to her uncles before leaving the house.

§ 87(2)(b) (BR 11) did not testify as to whether his uncles asked to see the search warrant or if officers showed it to them. § 87(2)(b) § 87(2)(b) (BR 16) was uncooperative.

Det. Keane (BR 18), Det. Barry (BR 19), Det. Avent (BR 20), Det. Mogelnicki (BR 23), Det. Vahey (BR 24), and Det. Paek (BR 25) did not hear the civilians request to see the search warrant, denied refusing to show it to them, and denied saying, "Shut the fuck up. We do not need to show you anything."

Sgt. Ferrara (BR 21) acknowledged that after all the civilians were secure in the dining room, he heard several of them – he could not identify who exactly – ask to see the search

- 9602320, involved allegations of physical force (push/shove), which was substantiated; abuse of authority (search of a person and other), which were closed as unsubstantiated; offensive language and force (other), which were closed as unfounded; and force (beat), which was closed as unsubstituted. The Board recommended charges for the substantiated allegation. The NYPD Disposition is not listed in CTS.

Mediation, Civil and Criminal Histories

- This case was not eligible for mediation due to the arrests.
- § 87(2)(b) has filed a Notice of Claim (BR 29) with the NYC Comptroller's Office claiming unlawful search, seizure and entry, loss of liberty, loss of Civil and Constitutional rights, intentional infliction of emotional distress, negligence, assault, battery, malicious prosecution, excessive force, deliberate indifference to medical/health needs, negligent training, supervision, and hiring, and seeking one million dollars (\$1,000,000.00) as recompense.
- As of June 18, 2018, no Notice of Claim is on file for § 87(2)(b) and § 87(2)(b)
- § 87(2)(b), § 87(2)(c) (impair contract awards or CBAs)
- § 87(2)(b), § 87(2)(c) (impair contract awards or CBAs)

Squad No.: 4

Investigator:	_____	_____	_____
	Signature	Print Title & Name	Date

Squad Leader:	_____	_____	_____
	Signature	Print Title & Name	Date

Reviewer:	_____	_____	_____
	Signature	Print Title & Name	Date